

Chapter 288-04 WAC

**POLICY AND PROCEDURE ON ADMINISTRATION OF THE PRISON
INDUSTRIES ENHANCEMENT CERTIFICATION PROGRAM (PIECP)**

WAC 288-04-010 Authority.

18 U.S.C. 1761 authorizes the prison industries enhancement certification program (PIECP). RCW 36.110.060, jail industries programs, establishes the jail industries board of directors as responsible for certifying private sector inmate employment programs per federal prison industries enhancement certification program criteria.

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-010, filed 8/6/98, effective 9/6/98.]

WAC 288-04-020 Purpose.

To establish the policy and procedure under which the jail industries board will certify private sector inmate employment programs per federal prison industries enhancement certification program criteria and meet its management obligations under Washington state law toward private sector employment programs.

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-020, filed 8/6/98, effective 9/6/98.]

WAC 288-04-030 Applicability.

Any county or city seeking to certify a cost accounting center (CAC) under the prison industries enhancement certification program.

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-030, filed 8/6/98, effective 9/6/98.]

WAC 288-04-040 Definitions.

Definitions found in chapter 36.110 RCW and U.S. Department of Justice/Bureau of Justice Assistance (BJA) guidelines. (Copies available from the jail industries board.)

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-040, filed 8/6/98, effective 9/6/98.]

WAC 288-04-050 Policy statement.

It is the policy of the jail industries board of directors to meet all the requirements of chapter 36.110 RCW, 18 U.S.C. 1761, and BJA guidelines for the administration of the prison industries enhancement certification program (PIECP). A city or county housing jail inmates that produce goods for sale in interstate commerce will not be certified under PIECP unless the city or county meets these requirements. The board will provide technical assistance to help jurisdictions meet these requirements. The board may create a special revenue fund to help offset jail industries board costs funded by an amount equal to seven and one-half percent of inmates' gross wages. This amount shall be remitted to the jail industries board from the local jurisdictions' authorized deductions from inmate wages.

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-050, filed 8/6/98, effective 9/6/98.]

WAC 288-04-060 Procedure.

Application for participation in PIECP.

Jurisdictions seeking to participate in PIECP will complete the following one-time information request to assist with program planning and ensure initial compliance with local, state and federal requirements. The information will be reviewed by jail industries board staff for completeness and forwarded to the jail industries board for approval.

Information request items.

PIECP Application Cover Sheet, PIECP Application and Attachments

Designation of cost accounting centers.

Jurisdictions that have been approved to participate in PIECP will complete an information request to designate a cost accounting center (CAC) under PIECP. A completed checklist with attached documentation is required each time a jurisdiction designates a new CAC. The information will be

reviewed by jail industries board staff for completeness. Jail industries board staff will forward the employment analysis to the employment security department, labor market and economic analysis branch, for its review and response. Upon receipt of determination of prevailing wage and non-displacement response from employment security, the entire package will be forwarded to the jail industries board for approval.

Information request item.

PIECP cost accounting center mandatory criteria checklist,
documentation, and notice of designation.

Sample documentation will be provided to assist the jurisdiction in completing the information request including:

Employment security department employment analysis.

Inmate wage agreement.

Business/labor notification letter.

National Environmental Policy Act (NEPA) statement of non-impact.

National Environmental Policy Act (NEPA) environmental assessment.

Samples available from the jail industries board.

Jail industries board review process.

The chair of the jail industries board will appoint from among the members of the board a five person PIECP standing committee to review applications for participation and designation of cost accounting centers. The committee will include members representing business, labor, jail staff, the board executive committee, and an at large position. The executive director of the jail industries board will serve as an ex officio member. The PIECP committee will review all applications for participation and designations of cost accounting centers submitted. It will forward a recommendation for approval or denial to the full board with an executive summary of the information provided. The full board will review the information at the next board meeting and vote to approve or deny the application for participation and/or designation of a cost accounting center.

Notice to the bureau of justice assistance.

The executive director of the jail industries board will send a notice of designation of a cost accounting center to the bureau of justice assistance for cost accounting centers that have been approved.

Documentation to BJA.

PIECP cost accounting center mandatory criteria checklist, documentation, and notice of designation.

Compliance reporting and review.

Each jurisdiction that has designated a cost accounting center is responsible to ensure compliance with local, state and federal requirements. The jurisdiction will receive from each CAC it has designated complete monthly payroll information for each inmate working including name, Social Security number, wage rate, total hours worked, total pay, and any deductions taken from pay for taxes or other purposes. The jurisdiction should verify that wages paid are appropriate per the employment security department wage finding and that overtime is being paid for any time over forty hours in one week. The jurisdiction will record any deductions it takes from each inmates wages and ensure the total deductions do not exceed eighty percent of gross wages and are for approved purposes. The jurisdiction will forward copies of payroll and deduction information each month to the jail industries board for review. Jail industries board staff are responsible to verify the information submitted reflects compliance with local, state and federal requirements and to submit all required reports to the bureau of justice assistance. Jail industries board staff are responsible to request annual wage updates from the employment security department and forward the information to local jurisdictions for their action.

Each jurisdiction with active CACs will be visited at least annually for an on-site compliance check. Jurisdictions participating in the program will agree to make available all documentation required to verify compliance with requirements and participate in the on-site compliance reviews.

Decertification.

The jail industries board has the final authority to determine if a jurisdiction is in compliance with Washington requirements as stated in chapter 36.110 RCW. The board may decertify a jurisdiction or one of its designated cost accounting centers if it determines the jurisdiction is out of compliance and is unable to work with the jurisdiction to ensure compliance. The bureau of justice assistance (BJA) has the final authority to determine if a cost accounting center is in compliance with federal requirements. Should BJA find a CAC out of compliance, the jail industries board and the jurisdiction will work with BJA to bring the CAC into compliance. If compliance issues cannot be resolved, the jail industries board will decertify the CAC per BJA guidelines. A decertified CAC may not employ inmates to produce goods for sale in interstate commerce.

**State of Washington
Jail Industries Board
Prison Industries Enhancement Certification Program (PIECP)
Application Cover Sheet**

AGENCY:

MAILING
ADDRESS:

STAFF CONTACT FOR PIECP ISSUES:
Name:

Title:

Phone:

Fax:

Email:

To the best of my knowledge, the information submitted in this application and its attachments is correct. I agree to allow the bureau of justice assistance access to records necessary to document compliance with PIECP requirements. I am duly authorized to submit this application* on behalf of:

AGENCY:

NAME:

SIGNATURE:

TITLE:

DATE:

*If the person signing the application is not the agency head, please attach a letter of designation from the agency head giving signature authority.

**State of Washington
Jail Industries Board
PIECP Application and Attachments**

AGENCY:

1. A Local Advisory Group has been formed, including an equal number of representatives from:

labor (required)

business (required)

The group also includes representatives from:

sheltered workshops (recommended)

crime victims advocates (recommended)

Attachments: Statement of when the advisory group was established and roster of members, including name and affiliation

2. A Special Revenue Fund has been created to receive inmate wage deductions, including deductions taken to help offset jail industries costs.

Attachment: Not Required

(Note: Documentation may be examined during on-site compliance reviews.)

3. The jurisdiction has in place the appropriate statutory and administrative authority to meet all mandatory program criteria.

Attachment: Not Required

(Note: Documentation may be examined during on-site compliance reviews.)

4. Documentation is available to show compliance with all mandatory program criteria.

Attachment: Submitted when a cost accounting center is designated

**State of Washington
Jail Industries Board**

**PIECP Cost Accounting Center
Mandatory Criteria Checklist, Documentation, and Notice of Designation**

Cost Accounting Center Name:

Model: Employer Customer Manpower Other (define)

Facility Name:

Location:

Product Line:

Number of inmate workers:

Geographic distribution of product:

1. Eligibility

This organization, is authorized by law to administer PIECP programs.

Attachment: Not Required

2. Private Sector Wage Rates

All PIECP inmate workers will be paid wages per bureau of justice assistance program guidelines and the wage scale verified in writing by the appropriate state agency which verifies wage rates.

Attachment:

- Written definition of locality used to in wage rate finding
- Written wage determination
- Written wage plan (if any)
(Attach employment analysis and employment security department wage and non-displacement determination.)

If wage verification cannot be obtained from the appropriate state agency responsible for determination, the PIE participant agency is responsible for establishing a reasonable prevailing wage.

Attachment:

- Written documentation that the appropriate state agency responsible for determination cannot provide the determination
- Written definition of locality used in wage rate finding
- Written wage determination by the PIE certificate holder
- Relevant wage data from a sufficient number of competitors in the locality
- Data analyses for determining a reasonable prevailing wage
- If possible, a written assessment of the reasonableness of the resulting prevailing wage determination by the appropriate state agency which normally determines wage rates

3. Free Worker Displacement

This operation will not displace free-world workers, as verified in writing by the appropriate state agency which verifies non-displacement.

Attachment:

- Written non-displacement determination
- Written definition of locality used in non-displacement finding
- Letter of agreement from company on non-displacement of free-world workers employed by the company

(Attach employment security department wage and non-displacement determination.)

In cases where the appropriate state agency cannot make a non-displacement determination, the CAC should propose and confer with BJA on alternative measures to address this requirement on a case-by-case basis.

Attachment:

- Written agreement from BJA approving alternative measures of non-displacement
- Written definition of locality used in non-displacement determination
- Letter of agreement from company on non-displacement of free-world workers employed by the company
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4. Benefits

All inmate workers are covered by the following benefits: Workers compensation and Social Security, or written exemption(s) from the relevant federal agency(ies) for benefits coverage is on file.

Attachment: Written statement on benefits coverage of workers

5. Deductions

(a) Deductions from gross wages, if made, in aggregate will not exceed eighty percent of gross wage and may be withheld only for:

Taxes - federal, state, local -

(if claiming exemption from tax withholding, provide letter of exemption from the appropriate federal, state, or local authority)

% Room and board

% Allocations for support of family pursuant to state statute, court order, or agreement by the offender.

% Contributions of gross wages to any fund established by law to compensate the victims of crime (if taken, must be 5 to 20%)

(b) Deductions from net wages may include:

Mandatory savings

Repayment of legal financial obligations

Attachment: Inmate wage deduction policy

(c) If this CAC is housed in or managed by a private prison, written authority exists from each remanding jurisdiction for any deductions taken. Victims' Compensation payments must be returned to the remanding jurisdiction(s). Disposition of Room and Board payments must be determined by the remanding jurisdiction(s).

Attachment: Written approval from each remanding jurisdiction with inmates participating in PIECP

6. Voluntary Worker Participation

All inmate workers will indicate in writing that they agree voluntarily to participate and for any deductions made they agree voluntarily and in advance to all wage deductions and all other financial arrangements made as to wages.

Attachment: Sample inmate participation and wage deduction agreement(s)

7. Consultation with Organized Labor

The local union central labor council, or the state labor council if no local council exists, has been consulted.

Attachment: Letter to labor council or minutes of board meeting, or public notice containing pertinent information relating to the proposed project. (Attach notice letter.)

8. Consultation with Local Private Business

The local economic development council, chamber of commerce or similar local business organization, or a similar statewide business organization if no local organization exists, has been consulted.

Attachment: Letter to business organization or minutes of board meeting, or public notice containing pertinent information relating to the proposed project. (Attach notice letter.)

9. Compliance with the National Environmental Policy Act (NEPA) (Check One Box)

A. Designation of this CAC includes only minor renovation or remodeling which does not require an environmental impact statement or an environmental assessment.

Attachment: Statement of Non-impact

B. Designation of this CAC includes renovations that change the basic prior use of the facility or significantly change the size; new construction; research and technology whose application could affect the environment; or use of chemicals.

Attachment: Environmental Assessment

C. Assessments made under B. which result in findings of significant impact require submittal of an environmental impact statement.

Attachment: Environmental Impact Statement

I certify the above information to be true to the best of my knowledge.

Name of the Authorized Signatory:

Signature:

Title:

Effective Date of Designation:

(must be prior to the start-up of inmate employment)

[Statutory Authority: RCW 36.110.060. 98-17-003, § 288-04-060, filed 8/6/98, effective 9/6/98.]

Chapter 288-06 WAC
PRISON INDUSTRIES ENHANCEMENT CERTIFICATION PROGRAM
ADJUDICATIVE PROCEEDINGS

Last Update: 8/6/98

WAC 288-06-010 Application of brief adjudicative proceedings.

The board adopts the brief adjudicative proceedings procedures permitted by RCW 34.05.482 through 34.05.494 and WAC 10-08-080 computation of time for adjudicative proceedings requested by applicants who:

- (1) Are denied certification; or
- (2) Are the subject of decertification actions taken under the authority of board policies on the prison industries enhancement certification program and RCW 36.110.060.

The sole issue at the brief adjudicative proceeding shall be whether:

- (a) The applicant meets the requirements for certification; or
- (b) A certified program participant is out of compliance with program requirements and should be decertified.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-010, filed 8/6/98, effective 9/6/98.]

WAC 288-06-020 Application of adjudicative proceedings.

If the full board finds that the issue and interests raised in the request for adjudicative proceeding warrant the use of procedures of RCW 34.05.410 through 34.05.479, the board may conduct a formal adjudicative proceeding and hereby adopts the model rules of procedure as set forth in WAC 10-08-035 through 10-08-230 for the conduct of formal adjudicative proceedings.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-020, filed 8/6/98, effective 9/6/98.]

WAC 288-06-030 Request for adjudicative proceeding.

Requests for an adjudicative proceeding must be made in writing to the board within twenty-one days of receiving notice of a certification or decertification action.

Requests may be made by:

- (1) The correctional facility and/or business seeking certification; or
- (2) The correctional facility and/or business being decertified.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-030, filed 8/6/98, effective 9/6/98.]

WAC 288-06-040 Failure to apply or participate.

Failure to apply for an adjudicative proceeding within the times set forth in WAC 288-06-020 shall result in the adoption of the board's initial determination as its final determination. Failure to attend or otherwise participate in an adjudicative proceeding may result in a finding of default.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-040, filed 8/6/98, effective 9/6/98.]

WAC 288-06-050 Preliminary record in brief adjudicative proceedings.

- (1) The preliminary record with respect to an application for a prison industries enhancement certification program certification is:
- (a) The application for the certification and all associated documents;
 - (b) All documents relied upon by the board in proposing to deny the application; and
 - (c) All correspondence between the applicant for certification and the board regarding the application.
- (2) The preliminary record with respect to decertification of a program is:
- (a) The existing certification file;
 - (b) All reports or other documents submitted to the board by the certified program participant which is the subject of decertification; and
 - (c) All correspondence between the participant and the board regarding compliance with program requirements.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-050, filed 8/6/98, effective 9/6/98.]

WAC 288-06-060 Conduct of brief adjudicative proceedings.

- (1) Brief adjudicative proceedings shall be conducted by the chair of the board or other presiding officer for brief adjudicative proceedings as designated by the chair.
- (2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.
- (3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.
- (4) No witnesses may appear to testify and no discovery other than reproduction of the preliminary record as specified will occur.
- (5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.
- (6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter a written initial order.
- (7) Initial orders on brief adjudicative proceedings shall become final twenty-one days after service of the initial order.
- (8) Further appeals to board decisions regarding certification and decertification issues can be made to superior court as specified in chapter 34.05 RCW, Administrative Procedure Act, Part V, Judicial Review and Civil Enforcement.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-060, filed 8/6/98, effective 9/6/98.]

WAC 288-06-070 Agency record in brief proceedings.

The agency record of brief adjudicative proceedings shall consist of:

- (1) The preliminary record as set forth in WAC 288-06-050;
- (2) All initiating documents including the notice of opportunity to defend;
- (3) The request for adjudicative proceeding;
- (4) All documents submitted in the proceeding;
- (5) Any transcript or recording of any testimony or arguments presented; and
- (6) All orders issued in the case.

[Statutory Authority: RCW 36.110.060 and chapter 34.05 RCW. 98-17-004, § 288-06-070, filed 8/6/98, effective 9/6/98.]